# British Columbia First Nations Forest Policy Forum

## DISCUSSION PAPER

**March 31, 2003**

Garry Merkel, Earl Smith, and Dave Walkem prepared this document based on their personal views plus discussions with various First Nations individuals and organizations. While the authors believe that this accurately represents their discussions it is important to note that this is the authors interpretation, the authors did not discuss this with all First Nations, and this was not the result of any formal consultation process.

# EXECUTIVE SUMMARY:

This document explores organizations, events and associated processes (Forum) that will result in more effective ongoing forest policy discussions between the British Columbia Minister of Forests (Minister) and the collective of British Columbia First Nations (First Nations). The two key questions were:

a. **Do First Nations agree with the need to establish some type of Forum?**

b. **If there is general agreement on the need for a Forum then what form might that Forum take?**

The author's found that First Nations were generally interested in creating better ways for First Nations to discuss forest policy issues with the Minister, however there was a great deal of variation on what form the Forum might take. There are also a number of issues that need to be acknowledged and addressed including: mistrust from First Nations towards the government; lack of understanding, consistency and coordination within government; and the need to meet both First Nations and the Province's needs.

The Forum must adhere to guiding principles and must: be built from a foundation that recognizes that the primary legal and working relationship is between individual First Nations and the crown; serve the interests and needs of both First Nations and the Minister; not make decisions on behalf of First Nations; not be used as a substitute for direct consultation and accommodation with individual First Nations; not be communicated as the mechanism for consultation with First Nations (at the expense of individual First Nations); foster an improved relationship between the Minister and First Nations; demonstrate to all parties that the Forum is able to achieve results and fulfill its purpose; have clear guidelines on its authority and scope for each topic area that the Forum may deal with; directly involve as many First Nations as practically possible, preferably as close as possible to their respective territories; have the necessary resources and organizational support to achieve its mandate; and move from a less structured to a more structured process over time (as trust and experience builds).

The proposed Forum would contain 3 components: (1) Formalize individual "political" relationships with First Nations; (2) Regional and provincial discussion sessions; and (3) focus group(s). The recommendation is to begin with components 1 and 2, then to build towards component 3 as experience and trust grow over time. Focus group(s) may address specific topics or may be one group addressing all topics depending on agreement between First Nations and the Minister. Most First Nations feel that one of the priority items that must be addressed is the current provincial consultation policy.

The proposed Forum would be supported by a semi-independent secretariat that would coordinate all logistics of the Forum, produce summaries (including action plans) of all discussion sessions, and coordinate an annual review and evaluation of the Forum. Modifications or elimination of the Forum would be based on the results of the annual review and evaluation and discussions between the Minister and First Nations.

# PURPOSE:

This document explores organizations, events and associated processes that will result in more effective ongoing forest policy discussions between the British Columbia Minister of Forests (referred to as the Minister in this document) and the collective of British Columbia First Nations (referred to as First Nations in this document). This collective of organizations, events and processes is referred to as the Forum in this document.

# BACKGROUND:

The Minister hosted a workshop with First Nations in October 2002 to discuss various forest policy issues as they relate to First Nations. During this workshop the Minister mentioned a number of times his need to establish an effective way to discuss forest policy issues with First Nations. The Minister acknowledged that the best way would be for him to personally meet with every First Nation on every policy issue, however this is not practical or feasible given the Minster's many other obligations. While this need was identified at the workshop, no suggestions were provided on how to establish this discussion forum.

The Minister subsequently asked Garry Merkel, Earl Smith, and Dave Walkem if they would discuss this need with First Nations to determine:

a. **Do First Nations agree with the need to establish some type of Forum?**

b. **If there is general agreement on the need for a Forum then what form might that Forum take?**

Garry Merkel, Earl Smith, and Dave Walkem agreed to take on this task then produced this document based on discussions with various First Nations organizations and individuals. It is important to note that this document is not the result of any formal consultation process. It represents the author's interpretation of what they heard from the select groups interviewed and may not necessarily represent a consensus of all First Nations.

# ISSUES:

First Nations identified the following key issues that must be considered when creating this Forum.

a. There is a general atmosphere of mistrust from First Nations towards the current government and the Minister. Some reasons for this mistrust include:

- First Nations are often excluded or marginalized from significant policy discussions that have significant direct impacts to them. Examples of this included the Province's First Nations Consultation Policy and the Working Forest Policy. First Nations were not involved in creating these documents and even the most senior First Nations representatives who work closely with the Province were surprised when they were released. This pattern has happened since early days of creation of Forest Act.
- There have been a number of policy announcements to increase First Nations involvement in BC's forest sector, however many First Nations have been unable to capitalize on these opportunities. Many First Nations feel that it is business as usual. However it is important to note that these directives are relatively new and this feeling may shift as the policies unfold – this should be monitored closely over the next few months.
- This government has the reputation of being "Indian Fighters". The Attorney General was one of the key drivers and signatories on the Delgam Uukw court case, and the Premier was the key supporter and signatory on the appeal of the Nisga'a treaty. As well most First Nations' perception is that this government forced the recent referendum to try to "kill the treaty process".
- The Attorney General recently put the First Nations Summit Executive on notice that, "everything the province does from this point forward is with prejudice." This statement raises substantial concern in the context of the government's drive to increase economic opportunities for First Nations in the BC forest sector.

This mistrust leads many First Nations to wonder if there is some hidden agenda in creating the proposed Forum, or if a Forum will be "honoured" if it were created.

b. There is a cynical belief that all the major changes to forest policy have already been made by this government. Those discussions occurred over the past 9 months between industry and government. First Nations representatives that attempted to participate were denied access. If we are not important enough to be a part of "…the most significant changes in forest policy in the past 50 years…" as per the announcement this week from the forest minister, what possible influence could we have from now on?

c. First Nations are concerned that the current consultation process does not adequately accommodate First Nations interests or concerns. One factor that

contributes to the lack of ability to provide informed input is a general lack of education to develop community members' understanding of forestry language, map reading and processes.

d. There is a general lack of common understanding among First Nations and provincial employees around: evolving law with respect to First Nations and forestry; provincial policy to increase First Nations involvement in BC forestry; and how to accommodate First Nations interests and concerns.

e. There is a lack of consistency in the application of provincial policy by MoF staff. Differences in understanding of provincial policy, differing personal biases and the wide ranges of local relationships were cited as factors contributing to this inconsistency. Some First Nations reported to be doing relatively well while others were still very frustrated with their ability to participate in the local forest sector and their relationships with local MoF staff. Particularly First Nations in the more rural areas are frustrated with gaining access to MoF personnel and getting their membership trained in forestry language and processes.

f. There is a lack of coordination between MoF and the Ministry of Sustainable Resource Management (MSRM). MSRM is responsible for coordinating provincial policy in a number of key areas, e.g., First Nations Consultation, Working Forest. However there appears to be very little coordination between MSRM and MoF and it is not clear if and how this proposed Forum will provide input on these other key policy directives.

g. First Nations have been required to meet an impossible (and unrealistic) hurdle in our attempts to discuss forest policy changes. All First Nation representatives that have attempted to participate have been asked, "Whom do you represent? If they did not represent 100% of the First Nations in BC they were denied access. It is an unrealistic hurdle/barrier as it is not required of forest industry representatives as they do not represent unanimity within the industry but are still given access.

h. Many First Nations are concerned that the proposed Forum is being created to only meet the needs of the Minister and will not be used to meet their needs.

i. There are a number of First Nations who have already begun to respond to the need for common forest policy forums, a couple examples include the Northwest Tribal Treaty Forum and the Shuswap Natural Resources Board. However this trend is not widespread and not all First Nations are willing to participate in a common forum. Most existing forums are also concerned that they may be marginalized if they become part of a larger Forum.

These issues must be addressed in the creation and operation of the proposed Forum.

# GUIDING PRINCIPLES:

First Nations generally agreed that some type of Forum is required; the question is how it would be structured and how it would be built. The following is a checklist of principles that First Nations feel should be followed when developing the Forum. The Forum must:

a. Recognize that aboriginal title exists and First Nations have aboriginal title to all lands in BC although local specifics are still being formalized.

b. Be built from a foundation that recognizes that the primary legal and working relationship is between individual First Nations and the crown.

c. Serve the interests and needs of both First Nations and the Minister.

d. Not make decisions on behalf of First Nations.

e. Not be used as a substitute for direct consultation and accommodation with individual First Nations (a pre-requisite for effective and productive communication to occur on any of these issues is a compete overhaul of the consultation process to one that is mutually agreeable).

f. Not be communicated as the mechanism for consultation with First Nations (at the expense of individual First Nations).

g. Foster an improved relationship between the Minister and First Nations.

h. Demonstrate to all parties that the Forum is able to achieve results and fulfill its purpose.

i. Have clear guidelines on its authority and scope for each topic area that the Forum may deal with.

j. Directly involve as many First Nations as practically possible, preferably as close as possible to their respective territories.

k. Have the necessary resources and organizational support to achieve its mandate.

l. Move from a less structured to a more structured process over time (as trust and experience builds).

As mentioned earlier, these principles must be accommodated in the design of any Forum.

# PROPOSED STRUCTURE:

The Forum must meet the guiding principles outlined earlier, particularly the one that states, "Be built from a foundation that recognizes that the primary legal and working relationship is between individual First Nations and the crown." As also stated the Forum must "Move from a less structured to a more structured process over time (as trust and experience builds)."

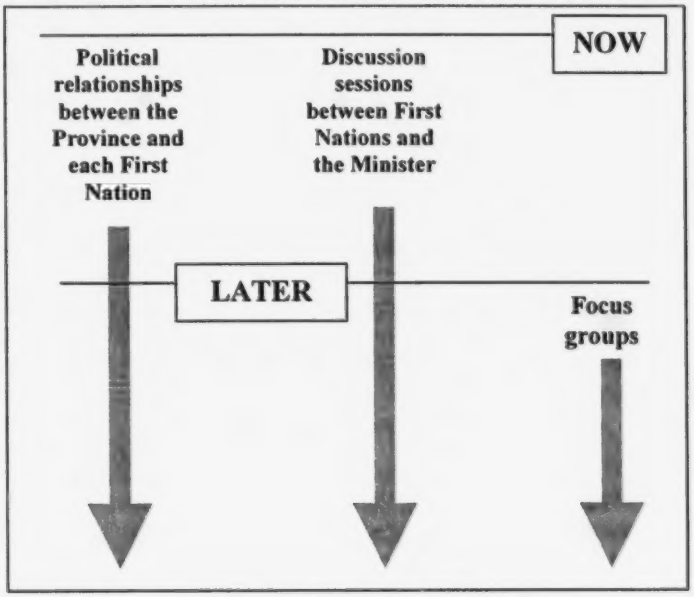
NOW
Political relationships between the Province and each First Nation
Discussion sessions between First Nations and the Minister
LATER
Focus groups

**Figure 1: Forest Policy Forum Components**

In order to meet these guiding principles the Forum must have three separate but inter-related components as shown in Figure 1. Components 1 and 2 should be done first with component 3 being created as experience ands trust grows between First Nations and the Minister. The components, in order of priority, include:

1. Clearly defined "political" relationships with each First Nation. These could be in the form of Consultation and Accommodation Protocols, Memorandum of Understandings or ultimately treaties.

2. Regional and provincial discussion sessions between First Nations, and between First Nations and the Minister on emerging forest policy issues.

3. A more structured and partially centralized focus group that discusses approaches to improving First Nations input on key forest policy issues and proposes approaches to those issues for discussion.

The Forum should also have a semi-independent Secretariat who will organize logistics for "political" relationship discussions, regional and provincial discussion sessions, and support the focus group if and when it is established.

**Component 1** (individual First Nations "political" relationships) is the highest priority and must be a focus of attention for the Minister. Discussions between First Nations and the Province (MoF) must:

a. Follow the divisions that First Nations identify among themselves.

b. Involve senior MoF personnel, preferably the Minister and/or Deputy Minister in each discussion.

These relationships are not intended to resolve all outstanding aboriginal rights and title issues. They are intended to create a more formal working relationship to consult with and accommodate the interests and concerns of First Nations. These relationships also form the basis of a potential more centralized focus group at some point in the future. However it must be made clear that this could be a long and lengthy process and that it should not be used as a reason for not getting broader input from First Nations on key policy initiatives. The Secretariat will be responsible for organizing all logistics for these discussions.

**Component 2** (regional/provincial) discussion sessions are a high priority and can be done concurrently with component 1 ("political" relationships). Discussion session agendas must:

a. Allow time for a First Nations only discussion plus a First Nations – MoF discussion.
b. Ensure the Minister is present.
c. Deal with the most current large forest policy issues of the day.
d. Discuss progress on component 1 ("political" relationships).
e. Discuss if a more formal focus group is appropriate yet.
f. Develop a specific action plan to deal with forest policy issues and prepare for the next meeting(s).
g. Report on action plans from previous meetings.

There should be a minimum of 5 sessions per year. Four sessions should follow the forest region boundaries inviting First Nations from those regions. First Nations near the regional boundaries should have the option to choose which session works best for them. One provincial session should be held at a central location inviting representatives from the regional sessions. The Secretariat will be responsible for organizing all meeting logistics and producing summaries (including an action plan) of these sessions.

**Component 3** (focus group) may be developed as experience and trust grows between First Nations and the Minister. Each discussion session under component 2 will determine if First Nations and the Minister are ready for this type of central focus group. It may be that individual focus groups are created for specific topics or the focus group(s) may evolve to one central entity. This will be determined on the basis of ongoing discussions between First Nations and the Minister.

The Forum would have an established annual operating budget provided by the MoF for supporting First Nations participation; the Secretariat; and professional assistance where required. Additional funds may be required for special projects.

One of the first priorities that many First Nations believe should be addressed in the province's consultation policy. First Nations feel that there needs to be a mutually agreed upon consultation policy adopted by the province and First Nations. The province unilaterally imposed the current policy and First Nations believe that it will lead to legal

confrontations. A new consultation policy can lead to a more certain working environment for all if it is structured loosely as follows:

1. An initial "WITHOUT PREJUDICE" stage that allows for identification/recognition of interest, negotiations regarding accommodations of those interests, and creative solutions.
2. A second stage would be invoked in the case where stage one failed to reach a mutually agreed upon accommodation. This second stage would be WITH PREJUDICE and would have more formalized discussions and legal arguments.

This process may also offer a model for approaching the individual relationships outlined in component 1 of the forum.

# REVIEW & EVALUATION:

The Secretariat should conduct a formal review of the Forum every February based on an objective outside analysis plus input from First Nations, the Minister and MoF. Specific questions that should address in the review and evaluation include:

a. What is the progress on individual "political" relationships?
b. Has the Forum respected individual First Nations ability to participate fully in their unique consultation and accommodation processes with the province?
c. Has the Forum fostered an improved relationship between First Nations and the Minister?
d. Are First Nations and the Minister's concerns being addressed, and if not, why not?
e. Are the range of First Nations involved, and if not, why not?

Results of these reviews and evaluations will be summarized in recommendations to First Nations and the Minister in the form of:

a. How to improve the Forum's effectiveness (including how to add more structure if appropriate), or
b. Terminating the Forum.

The hope is to continually improve the Forum however First Nations and the Minister may find that the Forum is not serving their needs and may chose to terminate this initiative.

# CONCLUSION:

This document summarized the author's understanding of input from First Nations towards creating a means for ongoing forest policy discussions between the BC Minister of Forests and BC First Nations. While there are a number of issues, including a significant mistrust towards government on the part of First Nations, the authors are optimistic that a long-term positive relationship can be fostered if the recommendations in this report are followed.

The alternative is to continue with the status quo. This generally includes random and unstructured discussions between MoF policy makers and First Nations, inadequate understanding within and between MoF and First Nations and often inadequate forest policy. This results in frustration and tension between MoF and First Nations. Frustration and tension that could very likely be minimized and possibly eliminated with an effective forest policy forum.

**Forest Investment Account**
**Land Base Investment Program**

# Land Base Investment Rationale (LBIR) and Information Sharing with First Nations for 2009/10

## Land Base Investment Program and the Land Base Investment Rationale

### Introduction

The Forest Investment Account's (FIA) Land Base Investment Program (LBIP) provides funding to eligible recipients to undertake work to improve the forest asset base and support sustainable forest management practices on Crown land through:

- higher level strategic decision-making and planning;
- increased timber volume and value;
- increased site productivity;
- restored terrestrial, aquatic and riparian environments;
- better decision-making information and tools; and,
- infrastructure that protects public safety and mitigates environmental hazards.

The Land Base Investment Rationale (LBIR) is the intermediary between recipient's individual needs and those of the management unit [Timber Supply Areas (TSA), Tree Farm Licenses (TFL)]. The LBIR provides context and focus for FIA land base investments, linking strategic objectives and issues with eligible land base activities across the LBIR.

### LBIR Structure

The process, content and structure of the LBIR is essentially unchanged from last year.

LBIP funding for woodlot licences is available for certain eligible land base activities on Crown land. A separate allocation of LBIP funding, coordinated through the Federation of BC Woodlot Associations and administered by PricewaterhouseCoopers (PwC), is provided for eligible activities on woodlot licences. Community forests participate in and are included within the appropriate TSA LBIR.

The current LBIP First Nations information sharing process clarifies roles and responsibilities among the LBIP funding recipients as well as district staff, and the LBIP administrator. The Ministry of Forests and Range (MFR) is committed to implementing a more strategic approach to information sharing with First Nations on LBIP activities.

The LBIR structure is designed to improve efficiency and effectiveness of the program and increase collaboration across management units. Considerations for gaining efficiencies in the LBIR structure are outlined below:

Provincially:

- LBIR structure may be configured into a logical unit to describe issues and activities, for example, where there are multiple Forest Districts (FDs) within one management unit (MU), such as a TSA.
- Community Forests will be included with the appropriate TSA LBIR.
- One LBIR may be prepared where an Innovative Forest Practices Agreement (IFPA) covers more than one MU and it is a logical unit to describe issues and activities.

Northern Interior Forest Region:

- Multiple Forest Districts within a single TSA example: The Prince George TSA spans multiple FDs (Fort St. James, Vanderhoof, and Prince George). One LBIR may be prepared for the Prince George TSA, however, district-specific issues should be outlined, possibly in separate sections.

Coast Forest Region:

- TFL Blocks may be included with the appropriate TSA LBIR rather than the former approach that included all TFL Blocks within one LBIR (that may have spanned more than one Forest District). TFL-specific issues should be outlined, possibly in separate sections.

Southern Interior Forest Region:

- Multiple Forest Districts within a single TSA example: The Williams Lake TSA spans multiple FDs (Chilcotin and Central Cariboo). One LBIR may be prepared for the Williams Lake TSA, however, district-specific issues should be outlined, possibly in separate sections.

**LBIR Preparation**

One recipient for each LBIR will take responsibility for organizing, administering and submitting the document on behalf of multiple recipients (and possibly multiple management units). The LBIR "Lead" will ensure completion of the LBIR and will also ensure that content for specific MU issues and activities (e.g., TFLs, Community Forests, Forest Districts) is included within the document with input from all participating recipients.

Further details related to roles and responsibilities for LBIR submission and the process for information sharing are outlined below.

**Timing**

The LBIR "cycle" will need to start at the end of the calendar year or earlier to allow for the information sharing process to occur during February and March. This timing is intended to allow for an adequate amount of review time within the information sharing process, so that projects can begin as early as possible in the upcoming fiscal year (after April 1st.)

**LBIP Rationale Guidelines and Information Sharing with First Nations 2009/10**
**December 1, 2008**

Starting the LBIR development late in the calendar year is not mandatory but encouraged in order to prevent process "hold ups" that could occur if the LBIR is finalized later into the new calendar year.

**Content**

The LBIR will include:

- An overview of the management unit issues that need to be addressed over the short term (3 years) for the achievement of the desired future condition of the forests within it (e.g. desirable age class and seral stage distribution, desirable habitat distribution);
- Documentation for ministries that links the LBIP activity expenditures at the forest and stand level with resource objectives at the management unit level, and LBIP objectives at the provincial level;
- A listing of eligible activities that will address the management issues. This information will be used in the information sharing process with First Nations to outline the types of activities, coverage or area of activity within the LBIR, and potential impact to the land base.

Specific documents that identify and/or support these subjects should be referenced or footnoted (they do not need to be included with the LBIR submission). The LBIR must:

1. Summarize existing information from:
    a. Land use plans (e.g. LRMP, regional plans and SRMP);
    b. Forest management documents (e.g. SFMP, TSR);
    c. Ministry of Forests and Range operational plans (e.g. FSP, FDP, IFPA Forestry Plans, Species and Ecosystems at Risk Recovery Plans); and,
    d. Strategies (e.g. silviculture, forest health, recreation, restoration).
2. Include pertinent resource objectives across each of the MUs covered in the LBIR that contribute towards the future desired state of the forest resource that are in sync with the LBIP;
3. Identify key issues towards meeting resource objectives that can be addressed by LBIP investments across each of the MUs covered in the LBIR;
4. Identify eligible LBIP activities and supporting strategies that will go towards resolving key issues and meeting MU and LBIP objectives. Include additional details if projects can be outlined at this stage (such as planned aerial photography or ground sampling phases for a Vegetation Resources Inventory);
5. Briefly describe the expected benefits from the LBIP investments. (Note: This Section can be combined in a table with point 3);
6. For projects that span multiple years, explain any previous work completed (and expenditures to-date) as well as the remaining works, an estimate of funding required

to fully complete the project, and indicate any information sharing that has taken place for this project (including FIRS project #); and,

7. Outline the information sharing based on direction from the District. There may be an existing consultation matrix that will provide information to the District Manager or designate for their determination of the appropriate level of information sharing.

For the template, please refer to the "LBIP Rationale (LBIR) Template".

**Review, Update, and Submission**

PwC will be responsible for reviewing LBIR submissions as per these guidelines. Eligibility of specific activities will be determined at the project plan stage. LBIRs will be posted on the FIRS home page (www.fialicensees.com). PwC will refer to the LBIR for linkages to activity expenditures at the forest and stand level.

**Funding**

Costs associated with ensuring the LBIR is submitted to PwC in a timely manner are eligible under the LBIP. A funding cap will not be associated with this activity. Funding will be provided based on the time and effort required recognizing that this activity is subject to both a performance and financial audit.

Recipients can submit a project plan to cover the cost or transfer a portion of their allocation to the recipient that has agreed to take responsibility for completing and submitting the LBIR document.

Below is a funding guidance template that recipients should include with their project plans when submitting to PwC.

| | |
|---|---|
| *Identify Lead Recipient for the Management Unit* | |

| **LBIR BUDGET OUTLINE** | | |
|---|---|---|
| **LBIR Phase** | **Rate** | **Phase Cost** |
| *LBIR Lead, Planning with FIA Recipients* | | |
| *LBIR Draft Document* | | |
| *LBIR MFR Review and Guidance – First Nations Information Sharing Requirements* | | |
| *LBIR First Nation Information Sharing* | | |
| *LBIR Final Document* | | |

The lead recipient initiates the FN information sharing process with the MFR first (note that it is not expected that all recipients have to go to the District Manager to discuss; just the lead who then brings it back to the group).

## Information Sharing with First Nations on LBIP Projects

### Background

Information sharing with First Nations on the LBIP activities is based on the premise that the legal obligation associated with consultation in respect of aboriginal interests rests with the Crown, however, the Crown has the ability to delegate procedural aspects associated with this consultation process.

In fulfilling this legal obligation, the Crown will consider "third party" information sharing activities, of which it has knowledge, as part of the broader consultation process. For the LBIP, the "third party" is the recipient agreement holder who leads the information sharing step of the larger consultation process through obligations outlined in the recipient agreement, the General FIA Standards (FS 1001) and this document. The MFR policy and guidelines for consultation can be found on the MFR's Aboriginal Affairs Branch website at http://www.for.gov.bc.ca/haa/policies_reports.htm

The MFR District Manager or designate has decision making authority as to whether the First Nation consultation process, including the information sharing step, has been appropriate. The appropriate level of First Nation consultation will depend on the **strength of the First Nation's aboriginal interests** within the project area and the **potential impact** the proposed forestry projects may have on those interests.

In the LBIP, the majority of the projects undertaken by recipients involve activities such as strategic resource planning and the gathering of resource information which will likely have minimal impact on the land base. About one third of the funding is invested each year in projects that are "on the ground" and are more likely to directly impact the land base (e.g., road deactivation, stream restoration).

As outlined above, the LBIR Lead will take responsibility for organizing, administering and submitting the LBIR on behalf of multiple recipients. The LBIR will be used to provide information to district staff so they can determine an appropriate level of information sharing. Based on the nature of the LBIP activities, it is anticipated that there will be a portion of activities that will require a low level of information sharing to be carried out by management unit recipient and, in some cases, Districts may not require information sharing.

An overview of the roles and responsibilities for LBIR development and the information sharing process for the LBIR lead, management unit recipients, and District is provided below, followed by the detailed process for information sharing.

**Roles and Responsibilities for Information Sharing**

The LBIR Lead is responsible for:

1) Providing opportunities for review and input into the draft LBIR for management unit recipients (including community forests) and government staff as appropriate.
2) Taking the completed LBIR to the District First Nation specialist.

   Note: LBIR Leads for management units within a Forest District are encouraged to meet together with the District staff to help create efficiencies for recipients, Districts and the First Nation(s) involved.
3) Sharing and distributing information sharing requirements with individual management unit recipients, including which First Nation(s) need to be contacted.
4) Submitting the final LBIR to PwC.

The District First Nation specialist and/or District Manager is responsible for:

1) Reviewing the LBIR with the LBIR Lead to:
   - advise on and document the appropriate level of information sharing identified in the LBIR; and,
   - confirm the First Nation(s) that need to be contacted.
2) Confirming, documenting and informing the recipients regarding the adequacy of the information sharing carried out by the recipient(s).
3) Carrying out further consultation with the First Nation(s) as required, e.g., where the First Nation does not engage in the information sharing process, or where comments from the First Nation cannot be addressed by the recipient.

The Management Unit recipients are responsible for:

1) Fully understanding the information sharing requirements and process for the LBIP.
2) Providing the LBIR Lead with relevant history on projects planned and information sharing completed.
3) Carrying out the required information sharing.
4) Documenting the information sharing, including the decision by the District that the information sharing has been adequate. A clear statement is required in FIRS (Box 5) to indicate that the information sharing requirements have been completed as required and that a confirmation of adequacy was received from the District.

**Process for Information Sharing**

**The following is a general process for the information sharing associated with LBIP projects and is provided as guidance for consideration only. The MFR District may have additional information and guidance, therefore the recipient should contact the MFR District First Nation specialist to ensure that the appropriate information sharing process is followed.**

| Step | Activities |
|---|---|
| 1 | **Contract obligations**<br>**1.1 Recipients** must review and understand their obligations with respect to information sharing with First Nations as outlined in the Recipient Agreement and General FIA Standards as well as how this information sharing fits within the First Nation consultation process. |
| 2 | **Level of information sharing and identification of relevant Aboriginal Groups**<br>**2.1 Recipients** must review and understand the level of information sharing required and the First Nation(s) that may be potentially affected for each of their proposed activities, as confirmed by the MFR District First Nation specialist and/or District Manager and documented in the appropriate LBIR.<br>**Note:** For some activities, **Districts** may not ask for information sharing by the Recipient.<br>**Note:** The level of information sharing may change as the process unfolds in relation to information a First Nation may provide regarding aboriginal interests.<br>**Note:** Where project locations overlap two districts, one **District** should take the lead and notify the other district. |
| 3 | **Notification and project batching**<br>**3.1 Notification**<br>Where a **Recipient** is instructed by the MFR, and as documented in the LBIR, to undertake "notification only" for a project or set of projects, the notification must be done prior to the project starting and may be in the form of a letter from the **Recipient**. The letter would explain the purpose of the project, when it will occur, and that it is only notification. The **Recipient** will document the steps taken in FIRS.<br>**3.2 Project batching**<br>Where a **Recipient** or a group of **Recipients** are able to collaborate on a single LBIP information sharing package to First Nations, this approach is encouraged. The **Recipient(s)** should consider listing all projects proposed within a First Nation's asserted traditional territory, describing the proposed project, why it is being proposed, who will be doing it, where it will be occurring, and when the project or activity will occur. It is suggested that greater detail and information be provided for those proposed projects with greater impact (i.e., some projects may be listed as notifications and other requesting input on potentially affected aboriginal interests). |

For projects requiring additional Information Sharing after the acceptance of the LBIR, the following steps should be addressed:

| Step | Activities |
|---|---|
| 4 | **Information sharing**<br>**4.1 For projects that require information sharing beyond notification (as documented in the LBIR), Recipients** must:<br>1. Provide correspondence to the First Nation about these project(s) being proposed within the First Nation's asserted traditional territory. The correspondence should explain the location, nature, and extent of the proposed activities, when the proposed project should take place, and should provide First Nations with an understanding of the potential on-the-ground impact of the proposed activities. For those projects requiring a higher level of information sharing, technical and descriptive information, such as diagrams and mapping products depicting the location of the proposed activities, should be sent or delivered to the potentially affected First Nations.<br>2. Provide an opportunity for the First Nation(s) to have the information explained to them.<br>3. Provide First Nations with an appropriate time to respond with information. Where projects require shorter timelines, an explanation is required in the letter.<br><br>**4.2 If First Nation's comments are not received,** the **Recipient** must:<br>1. Contact the First Nation and determine whether the First Nation does not wish to provide comments or does not want to participate in the process.<br>2. Notify the MFR District First Nation specialist outlining steps taken and reasons for lack of First Nation participation.<br>3. Document steps taken in FIRS.<br><br>The **District First Nation specialist and/or District Manager,** if not already involved, may contact the First Nation and may undertake further steps to ensure that consultation has been appropriate.<br><br>The **District Manager** will determine whether the information sharing process has been appropriate and whether the project(s) should go ahead, determine the adequate response, and send a response to the Recipient and First Nation.<br><br>**4.3 If First Nation's comments are received,** the **Recipient**<br>1. Must consider any concerns and information on aboriginal interests received in writing or in person.<br>2. With the concurrence of the **District First Nation specialist,** may propose appropriate revisions to the project to address concerns and aboriginal interests raised.<br>3. Must summarize results from information sharing including comments received from the First Nation(s), concerns raised and how aboriginal interests and other concerns raised were addressed/or not. The **Recipient** |

| Step | Activities |
|---|---|
| | will send the summary to the MFR District First Nation specialist and District Manager or designate and record the information in FIRS.<br><br>The **District Manager** will review the information sharing summary and:<br>1. If the **District Manager** is satisfied that the information sharing process was adequate, they will notify the Recipient and First Nation, or<br>2. The **District Manager or designate** will notify the Recipient if they require<br>- additional information sharing to be carried out, or<br>- a more detailed copy of the review and comment documentation is required, and/or<br>- modifications to be done to the proposed LBIP project to address aboriginal interests.<br><br>If the **Recipient** receives further requests from the District Manager or designate they must:<br>1. Complete the requirements as requested by the District Manager or designate.<br>2. Inform the District Manager or designate that the change has been made* and,<br>3. Amend the Project Plan in FIRS.<br><br>*The **District Manager or designate** will review the modified project information to determine if the requirements have been addressed, and will communicate the decision to the Recipient and the First Nation.<br><br>**4.4 If the Recipient cannot address the First Nation's comments:**<br><br>The **Recipient** must<br>1. Notify the District First Nation specialist and/or District Manager with a summary of the information sharing to date, nature of the impasse including why the First Nation's aboriginal interest or concern cannot be addressed, and<br>2. Document the steps taken in FIRS<br><br>The **District Manager or designate** will review the information sharing summary and:<br>1. Will determine whether the First Nation information sharing process has been adequate, and determine if the project(s) should go ahead, and if so, the circumstances and any adjustments that may be necessary to accommodate aboriginal interests and concerns raised.<br>2. Will notify the Recipient if they require<br>- additional information sharing to be carried out, or<br>- a more detailed copy of the review and comment documentation is required, and/or<br>- modifications to be done to the proposed LBIP project to address aboriginal interests.<br><br>If the **Recipient** receives further requests from the District Manager or designate |

| Step | Activities |
|---|---|
| | they must:<br>1. Complete the requirements as requested by the District Manager or designate<br>2. Amend the Project Plan in FIRS and,<br>3. Inform the District Manager or designate<br><br>The **District Manager or designate** will review the modified project information to determine if the requirements have been addressed, and will communicate the decision to the Recipient and the First Nation. |
| 5 | **Project Approval**<br>**Upon receiving notification from the District Manager:**<br>1. The **Recipient** must ensure that documentation of the information sharing process and decision is entered into FIRS (Box 5) with a clear statement to indicate that the information sharing was completed as required and that a confirmation of adequacy was received from the District.<br>2. Once it has been confirmed that the information sharing is sufficient, the project should be submitted to PwC for review and eligibility under the LBIP (funding can then be released). |

# Guidelines for Managing Cedar for Cultural Purposes

Coast Forest Region
final

**January, 2005**

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***NOTE: For the purposes of this paper and in respect of interpretation of the referenced provisions of the Forest Act and Free Use Permit Regulation, the references to "traditional and cultural activity" are statutory and regulatory references only, and are not to be read or interpreted as a recognition or admission in law that any particular cultural and traditional uses of cedar referred to are in any manner y representative of practices integral to any First Nation culture qualifying for recognition and affirmation as aboriginal rights pursuant to section 35 of the Constitution Act, 1982.***

## 1.0 Introduction

Western red cedar (Thuja plicata) and yellow cedar (Chamaecyparis nootkatensis) are considered to be important forest resources to First Nations and to the forest industry in the coastal region of British Columbia. Many First Nation groups in the coastal region have used and continue to utilise red and yellow cedar for traditional and cultural purposes. These *Guidelines for Managing Cedar for Cultural Purposes* (Guidelines) are intended to guide the management of cedar for traditional and cultural use in the context of forest planning in the Coast Forest Region.

The Guidelines have been developed to:

(a) ensure a consistent approach is undertaken across the Coast Forest Region when working with First Nations regarding the management of cedar for traditional and cultural purposes;
(b) provide guidance when considering First Nation's cedar interests and assessing the current supply of available cedar; and
(c) assist in the development of results or strategies for managing cedar for traditional and cultural purposes in forestry operational planning.

The recently enacted *Forest and Range Practices Act* and Regulations define a government objective for cultural heritage resources and factors for consideration by a licensee when developing results or strategies as part of the development of Forest Stewardship Plans (FSP). These Guidelines provide information that could be considered in the development of results or strategies for cedar as a cultural heritage resource. The Guidelines may also assist in assessing cedar supply as part of the Timber Supply Review (TSR) process leading to the allowable annual cut determination by the Chief Forester as well as in developing objectives in strategic planning processes.

These Guidelines were designed to provide a flexible approach that may be considered in the development of appropriate cedar management strategies that reflect the interests of local First Nations and relate to the specific characteristics of a particular planning area.

## 2.0 Policy & Legislation

The following provincial policies and legislation guide the management of cultural heritage resources, including cedar for cultural and traditional purposes, in the context of forest planning:

### 2.1 Free Use Permits

Section 48 (1) (g) of the *Forest Act* allows a district manager or forest officer authorised by the district manager to issue a Free Use Permit (FUP) to a person who requires Crown timber to undertake a traditional or cultural activity and which is not for sale to others. Stumpage is not payable on FUPs.

The district manager or authorised forest officer may issue a FUP to a person as a member of a group eligible to harvest timber for traditional and cultural activities, up to a maximum of 50 cubic metres. The district manager or authorised forest officer may issue a FUP to a person as a member of a group for a volume exceeding 50 cubic metres and less than 250 cubic metres where that person has applied and can demonstrate to the satisfaction of the district manager or forest officer that the timber is to be used for the construction of a longhouse, community hall, or other similar structure.

As defined in Section 1 of the Free Use Permit Regulation a "traditional and cultural activity" is any activity that:

(a) has historically been carried out in British Columbia by members of a group to which the person carrying out the activity belongs;
(b) is carried out for traditional or cultural purpose of the group; and
(c) is not carried out for profit, for a commercial purpose or for the purpose of constructing a residential building or a structure associated with a residential building.

Some examples of traditional and cultural uses of timber particular to First Nations include: totem poles, dug-out canoes, longhouses, and firewood required for a community cultural event.

## 2.2 Timber Supply Review

Determining the allowable annual cuts (AACs) for public forest lands in British Columbia is the responsibility of the Province's chief forester. This responsibility is required by legislation in Section 8 of the *Forest Act*. It states that the chief forester shall specifically consider the following factors:

(1) The rate of timber production that may be sustained from the area taking into account:
- the composition of the forest and its expected rate of growth;
- the time that it will take the forest to become re-established;
- silviculture treatments, including reforestation;
- standards of timber utilisation; and
- constraints on the amount of timber that may be produced due to use of the forest for other purposes.

(2) The short- and long- term implications to the Province of alternative rates of timber harvesting from the area.
(3) The economic and social objective of the Crown for the area, region and Province - as expressed by the Minister of Forests.
(4) Abnormal insect or disease infestations, and major salvage programs planned for the timber on the area.

The timber supply review process involves the analysis of current forest inventories and identifies a sustainable rate of harvest based on a number of forest management assumptions.

It is not a planning tool but can provide information on the current inventory of cedar and predict how the inventory changes over time with current forest management practices. It can also provide information on how timber supply is affected by implementing certain constraints that limit harvesting or change silviculture regimes in ways not covered by current forest management practices.

A copy of the *Forest Act* is available at
http://www.for.gov.bc.ca/tasb/legsregs/minfor/minfact/mofa.htm

### 2.3 Strategic Planning Process

Strategic land use planning processes result in the establishment of objectives for resource management on Crown land. Two key strategic planning processes are currently underway in parts of the Coast Forest Region:

Land and Resource Management Plans (LRMPs) are plans that cover a large area and state generally what the land use goals for the area will be. They are developed through discussions facilitated by the government, but with participants from industry, recreational, environmental, First Nations and other sectors of the public. Land use objectives that apply to certain areas covered by the plan may be legally established as a result of an LRMP. Government establishes Land Use Objectives under the *Land Act* and under the *Forest Practices Code Act* of British Columbia.

Landscape Unit Plan objectives are more specific than LRMP objectives. They may relate to a single stand or watershed, and usually involve much more specific objectives. For example, to date landscape unit planning has been used to identify "old growth management areas" – stands of trees necessary for protecting representative samples of old growth forest to ensure biological diversity is protected. An order establishing provincial non-spatial old growth objectives effective June 30, 2004 will guide the landscape unit planning process. A copy of the Order is available at:
http/srmwww.gov.bc.ca/rmd/oldgrowth/index.htm.

Objectives set through strategic planning processes provide direction to forestry operational planning proc[illegible]s. Objectives may be set for resource values such as cultural heritage resources, cedar and or old growth.

### 2.4 Forest & Range Practices Act and Regulations –Operational Planning

The *Forest and Range Practices Act* (FRPA) legislation and regulations were recently enacted and provide a legal framework for the development of Forest Stewardship Plans (FSP). FSPs replace forest development plans under the *Forest Practices Code* as the new form of operational plan. FSPs are required to identify results and/or strategies to address a range of objectives set by government. Objectives may be set through strategic land use planning processes, by regulation and by Ministerial Order pursuant to the *Government*

*Actions Regulation*. Key aspects of the legislation and regulations that may be relevant to cedar management are outlined below.

**Forest Stewardship Plans**
The *Forest Planning and Practices Regulation* provides details on the content and planning requirements for Forest Stewardship Plans. The *Forest Planning and Practices Regulation* also includes objectives set by government and in some cases default results or strategies for a number of resource values.

**Cultural Heritage Resource Objectives and Factors**
The *Forest Planning and Practices Regulation* outlines the objectives set by government with which results or strategies included in Forest Stewardship Plans must be consistent. Section 10 outlines the objective set by government for cultural heritage resources which is to conserve, or if necessary, protect cultural heritage resources that are:

(a) the focus of a traditional use by an aboriginal people that is of continuing importance to that people, and
(b) not regulated under the *Heritage Conservation Act*.

Section 12 (1) of the *Forest Planning and Practices Regulation* indicates that:
a person who prepares a Forest Stewardship Plan under Section 5 (1) (b) of the FRPA, may consider the factors set out in the Schedule when specifying results or strategies for established objectives.

Under Section 4 of the Regulation the following factors apply to a result or strategy for the objective set out in Section 10:

(a) the relative value or importance of a particular cultural heritage resource to a traditional use by an aboriginal people;
(b) the relative abundance or scarcity of a cultural heritage resource that is the focus of a traditional use by an aboriginal people;
(c) the historical extent of a traditional use by an aboriginal people of a cultural heritage resource;
(d) the impact on government granted timber harvesting rights of conserving or protecting a cultural heritage resource that is the focus of a traditional use by an aboriginal people; and
(e) options for mitigating the impact that a forest practice might have on a cultural heritage resource that is the focus of a traditional use by an aboriginal people.

**Review and Comment**
Under the review and comment Section 21 (1) of the *Forest Planning and Practices Regulation* a person who publishes notice under Section 20 must, during the period specified in the notice:

(d) make reasonable efforts to meet with First Nation groups affected by the plan to discuss the plan or amendment.

When responding to review and comment under Section 22 (1) a person who publishes a notice under Section 20 (1):

(a) must consider any written comments received under Section 21 that are relevant to the plan; and
(b) is not required to consider comments in respect of :
    (i) areas described in Section 14 (1) (b), (1) (c), (3) (a) or (4);
    (ii) results or strategies that relate to areas referred to in subparagraph (i).

**Resource Features**

Section 3(1) of the *Government Actions Regulation*, provides that subject to subsection (2) of the *Regulation*, the Minister may identify the following as a resource feature:

(f) a cultural heritage resource that is the focus of a traditional use by an aboriginal people and that is not regulated by the *Heritage Conservation Act*.

Section 3(2) of the Regulation states that:

The Minister may make an order under subsection (1) if the minister is satisfied that the resource feature requires special management that has not otherwise been provided for under this regulation or another enactment.

Section 3(3) of the Regulation states that the identification of a resource feature under subsection (1):

(a) may be by category or type, and may be restricted to a specified geographical location and;
(b) must be sufficiently specific to enable a person affected by it to identify the resource feature in the ordinary course of carrying out forest practices or range practices.

*Forest Planning and Practices Regulation,* Section 70 (1) states that:

Unless exempted under section 91(5), an authorised person who carries out a primary forest activity must ensure that the primary forest activity does not damage or render ineffective a resource feature.

A copy of the *Forest & Range Practices Act* is available at
http://www.for.gov.bc.ca/psearch/fpcfind.htm

A copy of the *Heritage Conservation Act* is available at
www.archaeology.gov.bc.ca

### 2.5 Aboriginal Rights & Title Policy Consultation Guidelines

The Ministry of Forests' *Aboriginal Rights and Title Policy* (January 2003) outlines MoF's approach to First Nations consultation and accommodation. A copy of the *Aboriginal Rights & Title Policy and Consultation Guidelines* is available at:
http://www.for.gov.bc.ca/haa/Policies.htm

The MOF meets its legal obligations to First Nations by carrying out consultation processes on proposed operational plans and administrative decisions where First Nations have aboriginal interests (asserted aboriginal rights and/or aboriginal title that in most instances have not been established or proven through a court process) within the area under the decision. A key objective of this process is for First Nations to specify their aboriginal interests in the area proposed for development, and how these aboriginal interests may be potentially infringed by the proposed decision.

Where aboriginal interests and potential infringement of such interests are identified, measures appropriate in the circumstances, to accommodate or address those issues need to be identified. In making an operational or administrative decision, the delegated decision makers must consider the information provided and the measures taken to address those potentially affected aboriginal interests.

In the context of operational plans, as proponents, licensees play an important role in explaining the FSP, objectives, and results or strategies to First Nations. They are also responsible for gathering information about First Nation's interests, including information on cultural heritage resources, in the plan area and identifying possible measures to address issues in the context of their proposed plan.

The delegated decision maker will consider the information and the adequacy of consultation prior to making his/her decision.

## 3.0 Guidelines for Managing Cedar for Traditional & Cultural Purposes

In the context of forest planning and management decisions, the management of cedar for traditional and cultural purposes may be a relevant consideration depending upon the First Nation and the location of the proposed development.

The proposed process as outlined below includes three steps that may be considered when developing short and/or long term strategies for managing cedar for traditional and cultural purposes:

(1) assessment of cultural cedar needs;
(2) analysing cultural cedar supply; and
(3) management considerations.

Prior to initiating the three steps outlined in detail below, information should be gathered regarding any specific objectives that may already have been set by government to guide the management of cedar in the area in question. For example, specific objectives may be set for cultural heritage resources such as cedar through strategic land use planning processes. Measures may be in place to ensure access to cedar for cultural use through the establishment of Old Growth Management Areas. An opportunity also exists for the Minister to establish a cultural heritage resource as a resource feature under the *Forest and Range Practices Act*, which could restrict forest practices that may impact those resource features. In certain areas, there may be specific stocking standards established for cedar. The Chief Forester may also have provided direction in a specific management unit to assess cedar inventories and ensure availability for cultural use.

It may not be necessary to carry out each of these steps in every planning context, and in the order suggested. For example, information generated through a timber supply review process or a strategic planning context may be available and used in operational planning.

Appendix III contains a flow chart that outlines a process that could be considered when developing short and long term strategies for managing cedar for traditional and cultural purposes.

### 3.1 Cultural Cedar Needs

A first step in the process is to work with First Nations who claim a cultural and traditional use of cedar to gather information regarding cedar needed for cultural and traditional purposes.

This may be achieved by working with a First Nation in a community based process that would allow community members to articulate their uses for red and yellow cedar, identify their short and long term cedar needs by end use, identify some key characteristics of the cedar needed for traditional and cultural purposes (size, age and quality of cedar used), assist in determining feasibility of access to cedar, and generally address any additional issues that may arise. It may be appropriate to specify a timeframe for concluding this work.

First Nation's interests in cedar for cultural use may be identified as part of a broader information sharing or consultation process associated with a particular plan or decision making process. In addition, some First Nations may have already completed work on a cedar strategy that may be made available to the Ministry of Forests and licensees. Where information regarding current cultural cedar needs is unavailable, it may be appropriate to review existing information or records related to cedar use in a particular planning area.

In the context of Forest Stewardship Plans, information gathered from First Nation groups regarding cedar needed for traditional and cultural purposes is consistent with the following factors as laid out in Section 4 of the Schedule of factors to the *Forest Planning and Practices Regulation*:

(a) the relative value or importance of a particular cultural heritage resource to a traditional use by an aboriginal people;
(c) the historical extent of a traditional use by an aboriginal people of a cultural heritage resource.

A detailed description of the steps involved to assist in the assessment of cedar needs can be found in Appendix II of this document.

### 3.2 Analysing Cultural Cedar Supply

Based on information gathered from First Nations regarding their cultural cedar needs, the supply of cedar within a First Nations asserted traditional territory or within a planning unit should be assessed to determine if those cedar needs can be met. The cedar supply analysis could involve a review of the supply of cedar using forest cover information to determine the presence of cedar by volume and age class and producing summaries of area and volume with cedar meeting the cultural needs specifications in the inventory. A next step would involve spatial analysis where maps are produced showing the area, age class, and volumes of cedar that meet the cultural cedar needs within a First Nation's asserted traditional territory or within a planning unit. It may be appropriate to examine operational cruise data and/or scale information to assist in identifying where cedar meeting certain criteria can be found. For example, cruise information may assist in the identification of large, high quality old growth cedar trees needed for canoe building, as specific information about the quality of cedar may not be available from the forest cover information.

The results of this analysis may be considered in the development of management approaches, including results or strategies for cedar as a cultural heritage resource in the context of a forest stewardship plan. The analysis of cedar supply is consistent with some of the factors relating to the objective set by government for cultural heritage resources as outlined in Section 4 of the Schedule of factors to the *Forest Planning and Practices Regulation*:

(b) the relative abundance or scarcity of a cultural heritage resource that is the focus of a traditional use by an aboriginal people.

A detailed description of the steps involved to assist in analysing cultural cedar supply can be found in Appendix II of this document.

### 3.3 Considerations for Managing Cedar

A range of potential short and long term management approaches have been identified and could be implemented in the context of forest planning. Different approaches may be relevant depending on short term access issues versus long-term access. There may be situations where, as a result of the supply analysis, it is clear that the supply of cedar available can meet the needs through current management approaches. There may be other situation where short and/or long term stewardship measures for cedar may be appropriate. For example, where bark stripping of cedar trees is an ongoing use, ensuring that stands of cedar

meeting the age class and quality specification available in the general area may be a strategy to consider. In areas where monumental cedar (very large good quality cedar) needed for canoe building is rare, good quality monumental cedar may be mapped and included in retention areas. For the long term, recruitment of cedar to meet the specifications for canoe building may be an approach considered. If through the supply analysis it is determined that large good quality cedars are rare and require special management, the Minister has an ability to establish a resource feature that could ensure those features are not impacted by forest development activities. These options in no way limit the range of potential approaches or results or strategies that could be used to manage cedar for cultural and traditional purposes and are provided as examples only.

The potential management approaches outlined are consistent with factors relating to the objective set by government for cultural heritage resources as outlined in Section 4 of the Schedule of factors to the *Forest Planning and Practices Regulation*:

(e) options for mitigating the impact that a forest practice might have on a cultural heritage resource that is the focus of a traditional use by an aboriginal people.

A detailed description of the steps involved for consideration when managing cedar for cultural purposes can be found in Appendix II of this document.

## 4.0 Roles & Responsibilities

The legal responsibility to consult with aboriginal groups rests with the Crown.

The forest industry must meet legislative requirements as well as contractual obligations and may supply additional information to assist the Ministry of Forests in meeting the Crown's duty to consult and if appropriate, accommodate First Nations.

## 5.0 Implementation

These Guidelines may be relevant for consideration in a range of forest management and planning processes. In strategic planning processes, an assessment of First Nation's interests with respect to cedar for cultural use and analysis of the cedar supply may result in the setting of land use objectives related to cedar management. Work is ongoing in this regard in the LRMP process on the Queen Charlotte Islands.

The Timber Supply Review process may provide an opportunity to analyse the supply of cedar in a particular management unit, assess current practices for cultural heritage resources and conduct sensitivity analysis in relation to cedar management approaches. The TSR process is not a planning process and cannot specify particular strategies for cedar

management. However, in the context of a tree farm licence (TFL) management plan, approaches to address cedar for traditional and cultural purposes may be identified.

In the operational planning process, licensees are required to include results or strategies in Forest Stewardship Plans that are consistent with the cultural heritage resource objective set by government. Cedar may be a cultural heritage resource that should be considered in the development of results or strategies. Licensees may wish to consider these Guidelines in the development of results or strategies for cedar where appropriate.

In terms of timelines, it is recommended that the process of identifying a First Nation's cultural cedar needs and reviewing the inventory for cedar that meets those needs begin as early in the planning process as possible. For example, licensee may wish to begin discussions with First Nations regarding cultural heritage resources within a FSP area prior to the draft plan being made available for the review and comment period. Timelines set for concluding the assessment work should be consistent with timelines for that particular planning process.

Ideally, the cultural needs analysis and cedar supply analysis will be produced for a particular First Nations asserted traditional territory. However, where a planning area includes only a portion of that territory, it may be appropriate for licence holders with operations within the First Nation's asserted traditional territory to collaborate on cultural needs analysis or cedar supply analysis. If this is not possible, the supply analysis and any or all management approaches may be applied on a proportionate basis relative to the planning area under consideration within a First Nation's asserted traditional territory.

There may be circumstances where the Ministry of Forests has gathered some of the information regarding First Nations cedar needs or has conducted some analysis related to cedar supply. This information will be made available to the licensees and can be considered in the development of results or strategies for cultural heritage resources as part of the Forest Stewardship Plans.

These Guidelines represent a tool that may be used to manage cedar for cultural purposes.

## Appendix I - Acknowledgements

This document has been prepared with the help of the following individuals:

**Ministry of Forests:**
John Andres, Stewardship Officer, Campbell River District
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**Consultant:**
Heather Moon, HL Moon Heritage Consultant

## Appendix II – Tables and Flow Chart

The following table describes Steps 1 to 10 as outlined in the flow chart attached:

### Steps for Reviewing Cultural Cedar Needs

| STEP | DESCRIPTION OF ACTION | FURTHER ACTION (AS REQUIRED) |
|---|---|---|
| | | |
| 1 | First Nation (FN) has expressed concern about cedar for cultural & traditional use:<br>• In consultation process?<br>• Operational plan (Forest Stewardship Plan (FSP)Forest Development Plan (FDP)?<br>• Administrative decision (Allowable Annual Cut (AAC)) determination; licence replacement?<br><br>**Note: Several FN have already expressed this concern in recent consultation processes:**<br>• **Some cedar assessment work already underway**<br>• **In some cases there are interim measures agreement that references the need to assess cedar for traditional & cultural purposes** | |
| 2 | Review whether there is a strategy already in place through previous processes (i.e. AAC determinations FDP, other) | If YES, go to Step 13<br>If NO, go to Step 3 |
| 3 | Initiate information sharing in order to determine the level of cedar needs. This may include letter to the respective FN and follow-up meetings. | |
| 4 | Request a summary of FN cedar needs & use from FN:<br>• Context ( for traditional &cultural use)<br>• Quantity by end use (prefer not to use m3)<br>- each FN will need to identify the intended end use of their cedar needs through discussions directly with First Nations<br>• Quality of cedar needed for uses<br>- Size of logs<br>- Grade information<br>- Length and diameter<br>- Characteristics of ideal logs<br>- Workable characteristics<br>• Access Considerations<br>- Within FN's asserted traditional territory<br>- Preferred locations<br>- Reasonable access<br>- Slope, aspect considerations<br>- Time of year<br>- FN ability to access logs<br>• Timelines need to be identified:<br>- Short term- 5-10 years, long term up to 250 years | |

| STEP | DESCRIPTION OF ACTION | FURTHER ACTION (AS REQUIRED) |
|---|---|---|
| 5 | FN internal needs assessment completed | |
| 6 | Licensee/MoF follow up with FN - *may require follow-up letters/meetings if no information is received* | |
| 7 | Has FN provided information on cedar use/needs?<br>• Licensee and MoF should communicate to ensure information received from FN is shared with licensees/MoF | If YES, go to Step 10<br>If NO, go to Step 8 |
| 8 | If Step 7 is no, document efforts to obtain information of FN cultural cedar needs | |
| 9 | Summarise historical information such as:<br>• Free Use Permit (FUP) information<br>• Cedar provided by licensee for FN cultural use (i.e. not in a FUP)<br>• Other local district or licensee knowledge of FN cultural use (i.e. received from other traditional territories) | |
| 10 | Use FN cultural assessment (and information in Step 9) to prepare summary of information gathering process and analysis of cedar needs:<br>• Use FN needs assessment submission (if received)<br>• Summary of past use (FUPs, licensee donations, local knowledge) to provide some guidance<br>• Document information exchange efforts with FNs | Go to Step 11 |
| | | |

The following table describes Steps 11 to 11E as outlined in the flow chart:

## Steps for Analysing Cultural Cedar Supply

| STEP | DESCRIPTION OF ACTION | FURTHER ACTION (AS REQUIRED) |
|---|---|---|
| | | |
| 11 | Determine from the Needs Assessment<br>• What is the supply analysis to focus on?<br>• Examples:<br>- Trees suitable for canoes<br>- Trees suitable for bark stripping<br>- Trees suitable for carving<br>- Any specific accessibility requirements, etc. | |
| 11A | Determine what information, summaries, or analyses already exist.<br>• Examples:<br>- Timber Supply Reviews<br>- District work<br>- Trees suitable for carving<br>- Work done by licensees<br>- Management Plans<br>- Archaeological Assessments / Surveys<br>- Ecological Classifications, etc.<br><br>Roll up summaries by asserted traditional territory, where possible.<br>Review results with the First Nation. Do they address the issue?<br>Short or long term? | If NO, go to 11B<br>If YES, go to 12A |
| 11B | Complete non-spatial analysis of Forest Cover information of Cedar presence by volume and age class.<br>Summarize info by category:<br>1. Timber Harvesting Land Base (THLB)<br>2. 'Reserved' areas: Old Growth Management Areas (OGMAs) ungulate winter range (UWR), Riparian, Parks<br>3. Inoperable<br>4. Tenure (include First Nation tenure)<br><br>Build analysis to report for Cedar (Cw), Cypress (Cy), and Cedar/Cypress:<br>1. % of area & volume that is Cw, Cy, Cw/Cy leading<br>2. % of area & volume that is Cw, Cy, Cw/Cy secondary and minor<br>3. Age Classes<br>4. A summary of Cw, Cy, Cw/Cy reforestation efforts, etc.<br><br>Roll up summaries by asserted traditional territory, where possible.<br>Review results with the First Nation.<br>Is the issue addressed?<br>Short or long term? | If NO, go to 11C<br>If YES, go to 12A |

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| 11C | Complete spatial summary of Forest Cover information.<br>Summarize info by category:<br>1. Timber Harvesting Land Base (THLB)<br>2. 'Reserved' areas: OGMA, UWR, Riparian, Parks<br>3. Inoperable<br>4. Tenure (include First Nation tenure)<br><br>Build maps to show for Cedar(Cw) Cypress(Cy), and Cedar/Cypress:<br>1. % of area & volume that is Cw, Cy, Cw/Cy leading<br>2. % of area & volume that is Cw, Cy, Cw/Cy secondary and minor<br>3. Age Classes<br>4. A summary of Cw, Cy, Cw/Cy reforestation efforts, etc.<br><br>Roll up summaries by asserted traditional territory, where possible.<br>Review results with the First Nation.<br>Is the issue addressed? Short or long term? | If NO, go to 11D<br>If YES, go to 12A |
| 11D | Decide to pursue further analysis, stewardship, or some combination.<br>Pursue further analysis.<br>Pursue stewardship. | If YES, go to 11E<br>If YES, go to 12A |
| 11E | Pursuing further analysis. Examples of further analysis include:<br>1. Using operational cruise info to predict existence of Cedar >70 cm through to 250 yrs.<br>2. Compare inventory and scale production data to estimate grade distribution in unharvested areas.<br>3. Carry out a modeling approach to identify potential locations of monumental cedar within a specified landbase- field verification could be used to confirm the presence of large old growth cedars.<br><br>**Note: These analyses are examples only. Differences in information availability will prevent these from being completed on every operating area.**<br><br>Roll up summaries by asserted traditional territory, where possible.<br>Review results with the First Nation.<br>Is the issue addressed? Short or long term? | If NO, go to 11D<br>If YES, go to 12A |
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The following table describes Steps 12A to 13 as outlined in the flow chart:

## Steps for Cultural Cedar Strategies

| STEP | DESCRIPTION OF ACTION | FURTHER ACTION (AS REQUIRED) |
|---|---|---|
| | | |
| 12A | Using information from FN need analysis (Steps 7-10) and supply analysis (Steps 11-11E), an in-depth comparison of cultural cedar availability should be made as to whether short term or long term needs can be met | |
| 12B | Does the review in Step 12A show the cedar supply is available for both the **short and long term** within the FN asserted traditional territory | If YES, go to Step 13<br>If NO, go to Step 12C |
| 13 | Review complete. Prepare summary of short and long term cedar available<br><br>**Note: this may require follow-up information sharing meeting with FN** | Go to Step 14 |
| 12C | Does the review in Step 12A show cultural cedar supply is available in the short term within the FN asserted traditional territory | If YES, go to 12 D<br>If NO, go to 12E |
| 12D | Does the review in Step 12A show cultural cedar supply is available in the long term within the FN asserted traditional territory | Go to 12G |
| 12E | Does the review in Step 12A show cultural cedar supply is not available in the short or long term within the FN asserted traditional territory | If YES, go to Step 12F and 12G simultaneously<br>If NO, go to 12F only |
| 12F | **START OF SHORT TERM STRATEGY.** Consider the examples of short term options listed below to mitigate impacts in short term where cultural cedar supply is limited:<br><br>• Can FN access cedar through existing tenure or proposed tenures<br>• Can FN access cedar in operationally constrained areas such as Old Growth Management Areas (OGMAs), Wildlife Habitat Areas (WHAs), Forest Ecosystem Networks (FENs), Ripariam Management Areas (RMAs), Wildlife Tree Patches (WTPs)? Access to cedar in these areas should not compromise the intent of those management areas or the other values in the area. Discussions with MSRM, WLAP recommended.<br>• Can FN access cedar in high retention/low intensity logging areas? Examples may include areas in special management zones or where non timber values have resulted in lower harvest levels (i.e. old growth stewardship areas)<br>• Are areas or resource features identified that protect cedar for cultural and traditional use? Can rare features be inventoried | |

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| | and located by GPS?<br>• Can FN access cedar from neighbouring FN? Have previous arrangements or understanding been made where a FN with available cedar can supply short-term amounts of cultural cedar?<br>• Can FN access cedar from licensees operating areas prior to harvesting?<br>• Can FN access cedar from protected areas (Parks)? This will require clear communication between the various agencies such as Ministry Water land and Air Protection (WLAP) and/or Parks Canada<br>• Can cedar be acquired from other sources, including log dumps, and current licensee operations?<br>• Can the short term strategies temporarily bridge the gap until further analysis can be done through the Timber Supply Review process to assess long term supply issues and then develop long term strategies as appropriate. | |
| 12G | **START OF LONG TERM STRATEGY.** Consider the following options as examples available to mitigate impacts in long term where cultural cedar supply is limited:<br>• Can FN access cedar through existing or proposed long-term tenures? In some instances, FN have access to a long term tenure arrangement where cultural cedar can be managed<br>• Can FN access cedar in operational constrained areas such as OGMAs, WHAs, FENs, RMAs, WTPs, etc.)? Access to cedar in these areas should not compromise the intent or the other values in the area. Discussions with MSRM, WALP recommended<br>• Will recruitment by growing site or establishment of 2nd growth cedar stands assist in a long-term strategy? Some other thoughts to consider:<br>a) Is there a need to reforest with more cedar?<br>b) plan for longer rotations?<br>c) encourage silviculture treatments (i.e. thinning) to produce a desired objective?<br>d) develop specific management practices that could produce the cultural products FN wish to have in future?<br>• Can FN access cedar in high retention/low intensity logging areas? Examples may include areas in special management zones or where non timber values have resulted in lower harvest levels (i.e. old growth stewardship areas)?<br>• Can FN access cedar from protected areas (Parks)? This will require clear communication between the various agencies such as WLAP and/or Parks Canada<br>• Are areas or resource features identified that protect cedar for cultural and traditional use? Can rare features be inventoried and located by GPS?<br>• Are areas identified in an AIP or is a treaty settlement nearing completion? | |
| 13 | Review complete. Prepare summary of short and long term cedar available for decision-maker | Go to Step 14 END |

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| | **Note: this may require follow-up information sharing meeting with FN** | |
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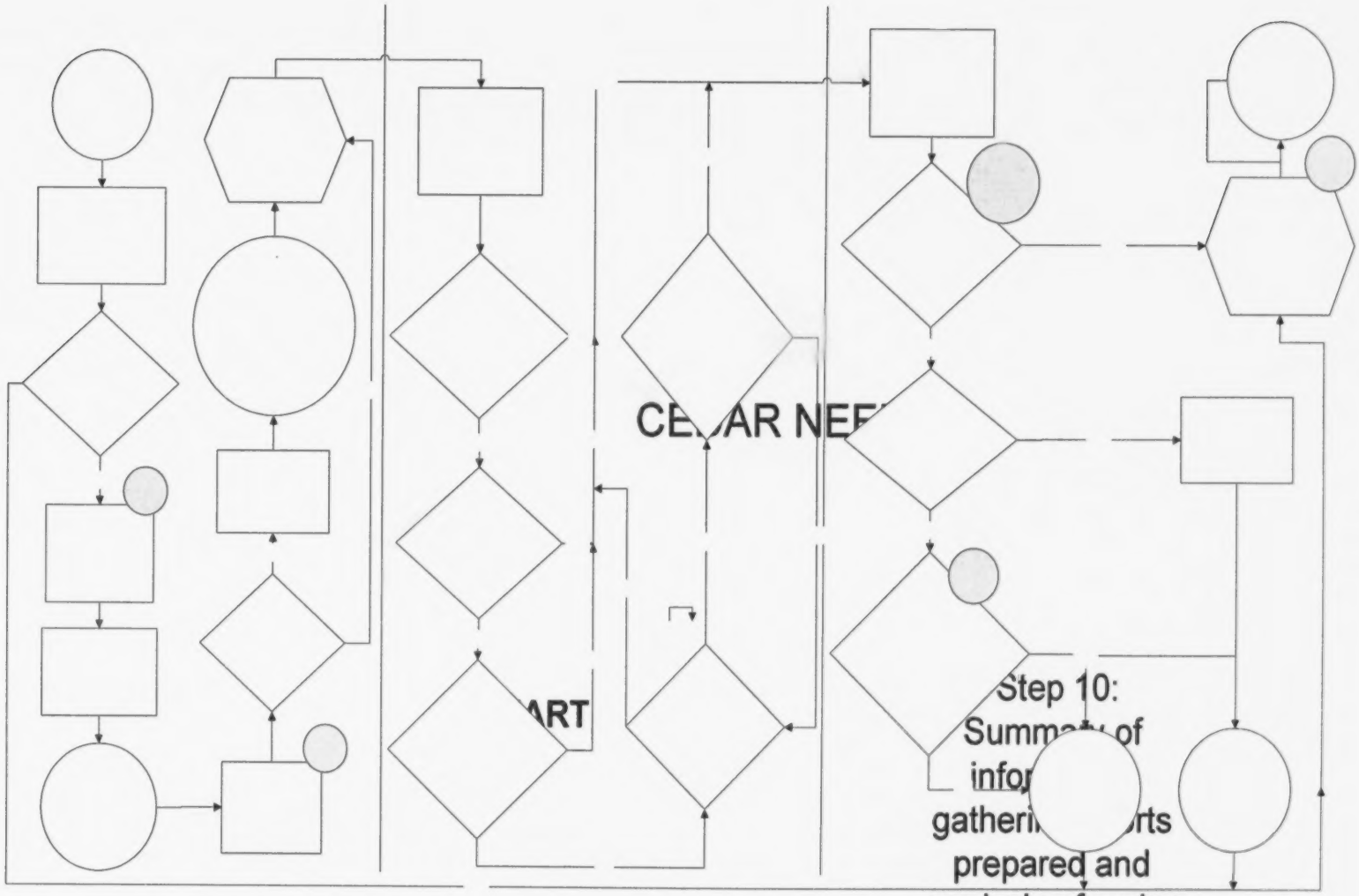
## Appendix III – Cedar Needs Business Process






Step 1: FN expresses